

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
WESTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DANIEL BOJORQUEZ-SALGUEIRO,

Defendant.

**No. 06-CR-4081-DEO

ORDER REGARDING REPORT AND
RECOMMENDATION CONCERNING
GUILTY PLEA**

I. INTRODUCTION AND BACKGROUND

On August 22, 2006, a 7 Count Indictment (Docket No. 4, 08/22/2006) was returned against defendant Daniel Bojorquez-Salgueiro and co-defendants. Only Counts 1, 2, 3, 4, 5, and 7 pertain to defendant Daniel Bojorquez-Salgueiro.

Count 1 of that Indictment charges that between about 2004 and continuing through August 21, 2006, in the Northern District of Iowa and elsewhere, defendant Daniel Bojorquez-Salgueiro and co-defendants did knowingly and unlawfully combine, conspire, confederate, and agree with each other and with other persons, known and unknown to the Grand Jury:

1. To distribute 500 grams or more of a mixture or substance containing a detectable amount of methamphetamine, a Schedule II controlled substance, within 1,000 feet of the real property comprising a public playground, that is

Grandview Park in Sioux City, Iowa, in violation of Title 21, United States Code, Sections 841(a)(1), 841(b)(1)(A) and 860(a), and;

2. To distribute marijuana, a Schedule I controlled substance, in violation of Title 21, United States Code, Sections 841(a)(1), 841(b)(1)(D).

This was in violation of Title 21, United States Code, Section 846.

Count 2 of that Indictment charges that on or about May 19, 2006, in the Northern District of Iowa, defendant Daniel Bojorquez-Salgueiro did knowingly and intentionally distribute more than 50 grams of a mixture or substance containing a detectable amount of methamphetamine, a Schedule II controlled substance.

This was in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(B).

Count 3 of that Indictment charges that on or about June 12, 2006, in the Northern District of Iowa, the defendant, Daniel Bojorquez-Salgueiro, did knowingly and intentionally distribute more than 50 grams of a mixture or substance containing a detectable amount of methamphetamine, a Schedule II controlled substance.

This was in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(B).

Count 4 of that Indictment charges that on or about July 28, 2006, in the Northern District of Iowa, the defendant, Daniel Bojorquez-Salgueiro, did knowingly and intentionally distribute methamphetamine and marijuana, a Schedule II controlled substance.

This was in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

Count 5 of that Indictment charges that on or about August 21, 2006, in the Northern District of Iowa, the defendant, Daniel Bojorquez-Salgueiro, did knowingly and intentionally possess with intent to distribute more than 50 grams of a mixture or substance containing a detectable amount of methamphetamine, a Schedule II controlled substance.

This was in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(B).

Count 7 of that Indictment charges that on or about August 21, 2006, in the Northern District of Iowa, the defendant, Daniel Bojorquez-Salgueiro, did possess a firearm, that is one Beretta 9mm handgun, serial number BER15007Z, in furtherance of and during and in relation to a drug trafficking crime for which he may be prosecuted in a court of

the United States, that is, conspiracy to distribute methamphetamine, and possession of methamphetamine with intent to distribute as charged in Counts 1 and 5 of this Indictment, violations of 21 U.S.C. §§ 846 and 841.

This was in violation of Title 18, United States Code, Section 924(c)(1)(A).

On February 27, 2007¹, defendant Daniel Bojorquez-Salgueiro appeared before Chief United States Magistrate Judge Paul A. Zoss and entered a plea of guilty to Counts 1, 2, 3, 4, 5, and 7 of the Indictment. In the Report and Recommendation (Docket No. 51, 04/05/2007) Chief United States Magistrate Judge Paul A. Zoss recommends that defendant Daniel Bojorquez-Salgueiro's guilty plea be accepted. No objections to Judge Zoss's Report and Recommendation were filed. The Court, therefore, undertakes the necessary review to accept defendant Daniel Bojorquez-Salgueiro's plea in this case.

II. ANALYSIS

A. Standard of Review

Pursuant to statute, this Court's standard of review for a magistrate judge's Report and Recommendation is as follows:

¹See Order at Docket No. 52, which states that the Report and Recommendation was inadvertently not docketed that day. The Report and Recommendation was filed on April 5, 2007, but was to be considered as docketed as of February 27, 2007.

A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made. A judge of the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate [judge].

28 U.S.C. § 636(b)(1). Similarly, Federal Rule of Civil Procedure 72(b) provides for review of a magistrate judge's Report and Recommendation on dispositive motions and prisoner petitions, where objections are made as follows:

The district judge to whom the case is assigned shall make a de novo determination upon the record, or after additional evidence, of any portion of the magistrate judge's disposition to which specific written objection has been made in accordance with this rule. The district judge may accept, reject, or modify the recommendation decision, receive further evidence, or recommit the matter to the magistrate judge with instructions.

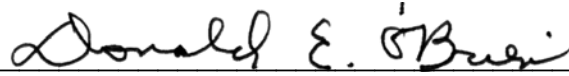
FED. R. CIV. P. 72(b).

In this case, no objections have been filed, and it appears to the Court upon review of Chief Magistrate Judge Zoss's findings and conclusions that there are no grounds to reject or modify them.

IT IS THEREFORE HEREBY ORDERED that this Court accepts Chief Magistrate Judge Zoss's Report and Recommendation (Docket No. 51), and accepts defendant Daniel Bojorquez-Salgueiro's plea of guilty in this case to Count 1, 2, 3, 4,

5, and 7 of the Indictment filed on August 22, 2006 (Docket No. 4).

IT IS SO ORDERED this 21st day of May, 2007.

A handwritten signature in black ink, reading "Donald E. O'Brien", is written over a horizontal line.

Donald E. O'Brien, Senior Judge
United States District Court
Northern District of Iowa